

EASTERN IDAHO PUBLIC HEALTH BOARD POLICY

ENVIRONMENTAL HEALTH APPEALS AND REQUEST FOR HEARING

Chapter 4, Title 39 Idaho Code establishes that judicial review of a final determination of the District Board of Health may be secured by any person adversely affected by filing a petition for review as prescribed by [Chapter 52, Title 67 Idaho Code](#). [IDAPA 04.11.01.101](#) encourages the use of informal proceedings to settle or determine contested cases.

This policy establishes the informal proceedings to be utilized to hear contested environmental health cases/decisions governed by the State of Idaho's Individual/Subsurface Sewage Disposal Rules ([IDAPA 58.01.03](#)).

A. APPEAL OF EASTERN IDAHO PUBLIC HEALTH STAFF MEMBER DECISION

1. Citizen Appeal: Any citizen aggrieved by a decision made by a staff member of Eastern Idaho Public Health may submit an administrative appeal to Eastern Idaho Public Health's Environmental Health Director for review.
2. Limitation of Time Periods: The individual program rules for time limitations within which certain actions must be taken or documents filed shall be followed. In the event there is no provision in the Idaho Code or other specific rule, a party shall have thirty (30) calendar days from the receipt of an adverse order or notice of decision to file an appeal of any adverse order or notice of decision.
3. Format for Appeal: All administrative appeals shall be made in writing, and shall contain the following information:
 - a. The nature of the decision upon which the appeal is brought, including the code, ordinance, rule, or policy cited by the Staff Member to support the decision.
 - b. The ruling or decision desired by the appellant.
 - c. A statement identifying the code, ordinance, rule, or policy which supports the citizen's position.
 - d. The reason(s) why the citizen believes the code, ordinance, rule or policy has been misapplied.
4. Basis/Criteria for Appeal: for each appeal request, EIPH's Environmental Health Director shall determine whether the issue raised is tied to application of a statute, policy, or rule administered by the public health district, or whether the issue involves the substance of any statute, policy or rule. An appeal is appropriate only in the instance of alleged misapplication of a state or health district statute, rule or policy.
5. Hearing Schedule: Within five (5) business days (not including holidays) of receipt of an administrative appeal, the Environmental Health Director shall assist the citizen to schedule a hearing before him/her as soon as the appeal can be accommodated. No fee shall be charged to any appeal applicant whose case shall be brought before the Environmental Health Director.

6. Staff Member Representation: The staff member whose decision has been challenged shall be present at the hearing.
7. Length of Presentations: Presentations at the hearing shall be limited to ten (10) minutes for each citizen and ten (10) minutes for the staff member, unless extraordinary circumstances require otherwise as determined by the Environmental Health Division Director.
8. Reports: The staff member or citizen may submit a written explanation for the Environmental Health Division Director's consideration prior to the start of the hearing. A copy of any staff member explanation shall be provided to the citizen at the time it is prepared for presentation to the Environmental Health Division Director.
9. Record of Hearing: EIPH's Environmental Health Director will arrange for a record to be made of the contested case hearing. The record must be a verbatim record and it shall be recorded electronically. The record shall be transcribed at the expense of the party requesting a transcription and prepayment or guarantee of payment may be required. Once a transcription is requested, any party may obtain a copy at the party's own expense. The recorded proceedings will be included into the record of the contested case. Eastern Idaho Public Health shall maintain an official record of each contested case for a period of not less than six (6) months after the expiration of the last date for judicial review, unless otherwise provided by law. The record shall include all notices of proceedings, pleadings, motions, briefs, petitions and intermediate rulings, evidence received or considered, any oral or written statements allowed by the hearing officer, statement of matters officially noticed, offers of proof and objections and rulings thereon, the recording of the proceedings or any transcript of all or part of the proceedings, staff memoranda or data submitted to the hearing authority in connection with the proceedings, and any recommended order, preliminary order, final order or order on reconsideration.
10. Decision: Within five (5) business days (not including holidays) after hearing the request of a citizen, the Environmental Health Division Director shall affirm the staff member's decision, reverse the decision, or affirm the decision conditionally. The decision in any such appeal shall be made in writing and shall set forth the reasons thereof.

B. APPEAL OF EASTERN IDAHO PUBLIC HEALTH'S ENVIRONMENTAL HEALTH DIRECTOR DECISION

1. Citizen Appeal: Within ten (10) business days (not including holidays) of the Environmental Health Director's decision, an appeal of said decision may be taken to the District Director of Eastern Idaho Public Health (District Director), solely upon the record compiled in accordance with this procedure. Said appeal may be accompanied by a written explanation of the basis for appeal, not exceeding two (2) typewritten pages. The District Director may request more information or may schedule oral presentations, if desired.
2. Decision: Within five (5) business days (not including holidays) after reviewing the request of a citizen, the District Director shall affirm the Environmental Health Division Director's decision, reverse the decision, or affirm the decision conditionally. The District Director's decision in any such appeal shall be made in writing and shall set forth the reasons thereof.

C. APPEAL OF EASTERN IDAHO PUBLIC HEALTH DIRECTOR'S DECISION

1. Citizen Appeal: Within ten (10) business days (not including holidays) of the District Director's decision, an appeal of said decision may be taken to the Board of Health of Eastern Idaho Public Health, solely upon the record compiled in accordance with this procedure.
2. Format: Said appeal may be accompanied by a written explanation of the basis for appeal, not exceeding two (2) typewritten pages. The Board may request more information or may schedule oral presentations, if desired.
3. Review by the Board of Health: After reviewing the request of a citizen at the next scheduled board meeting after the request is received, within five (5) business days (not including holidays), the Board of Health shall affirm the District Director's decision, reverse the decision, or affirm the decision conditionally.
4. Board of Health Decision: The Board of Health decision in any such appeal shall be made in writing and shall set forth the reasons thereof. The Board of Health's decision shall be final in matters subject to this appeal policy and procedure outline herein. However, the written decision of the Board of Health shall include a statement regarding the appealing party's right to appeal the Board's decision in accordance with Idaho Code 39-418 and the statutes referenced therein.

Date Approved: _____

Bryon Reed, Chairman